



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
Bay Delta Region  
2825 Cordelia Road, Suite 100  
Fairfield, CA 94534  
(707) 428-2002  
[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

GAVIN NEWSOM, Governor  
CHARLTON H. BONHAM, Director



Governor's Office of Planning & Research

**MAR 20 2020**

March 19, 2020

## STATE CLEARINGHOUSE

Mr. Donald Barrella  
Napa County Planning, Building, and Environmental Services  
1195 Third Street, Suite 210  
Napa, CA 94559

Subject: Shannon Ranches, Mitsuko Vineyard Conversion #P19-0052-ECPA, Draft Negative Declaration, SCH #2020029072, Napa County

Dear Mr. Barrella:

California Department of Fish and Wildlife (CDFW) personnel have reviewed the draft Negative Declaration (ND) for the Shannon Ranches, Mitsuko Vineyard Conversion (Project). CDFW is submitting comments on the draft ND to inform Napa County, as the Lead Agency, of our concerns regarding potentially significant impacts to sensitive resources associated with the proposed Project.

CDFW is providing comments as a Trustee Agency pursuant to the California Environmental Quality Act (CEQA) Section 15386 and is responsible for the conservation, protection, and management of the State's biological resources. CDFW is also considered a Responsible Agency if a project would require discretionary approval, such as permits issued under the California Endangered Species Act (CESA), the Native Plant Protection Act, the Lake and Streambed Alteration (LSA) Program, and other provisions of the Fish and Game Code that afford protection to the state's fish and wildlife trust resources.

### Environmental Setting

The Project will occur on a 365-acre parcel, located at 4189 Withers Road, in the City and County of Napa. The Project site is approximately 4.5 miles southwest of the City of Napa and approximately 7.5 miles southeast of the City of Sonoma. Carneros Creek and Huichica Creek, tributaries to the Napa River, lie approximately 0.6 miles to the northeast and 0.8 miles to the west, respectively. There are three piped drainages on the Project site that are believed to have been undergrounded sometime during the 1980s. Two piped ephemeral streams originate off the property to the west and flow in a easterly direction underneath the Project site before joining a third piped stream that originates off the property to the northwest. The third drainage conveys water in a southeasterly direction before discharging into an approximately 2.5-acre pond located at the southeastern corner of the Project site.

The Project site consists of approximately 60 acres of annual grassland and approximately 11 acres of coast live oak woodland. A few mature bluegum eucalyptus (*Eucalyptus globulus*) line the western property boundary directly adjacent to the Project site. Surrounding land use is predominantly vineyard, except for a small undeveloped annual grassland immediately to the west of the Project site.



## Project Description

The proposed Project will develop approximately 47 acres of vineyard within two vineyard blocks. Block 1 will be approximately 41 acres and Block 2 will be approximately 6 acres. Activities associated with vineyard development include earthmoving, vegetation removal, and installation and (ongoing) maintenance of erosion control measures. The vineyard will be developed in one phase over the course of a year. As a result of the Project, 46.42 acres of annual grassland, 0.15 acres of *Eucalyptus* grove, and 0.13 acres of coyote brush (*Baccharis pilularis*) shrub alliance will be permanently impacted.

Existing vineyard on the property is irrigated under surface water rights Permit 20737 (A029603) and Permit 20739 (A029391). The parcel currently receives a base allotment of 39.8 acre-feet of reuse water per year from Napa Sanitation District for purposes of vineyard irrigation, and this same allotment will be used to irrigate the proposed vineyard.

## Comments and Concerns

### *Nesting Birds and Raptors*

The Project will result in permanent impacts to annual grassland, which supports, and occurs directly adjacent to, suitable bird and raptor nesting habitat. The draft ND does not propose any avoidance and minimization measures to prevent potentially significant impacts to nesting birds and raptors, which are protected under the Migratory Bird Treaty Act, as well as Fish and Game Code sections 3503 and 3503.5. CDFW recommends that the draft ND include language requiring the Project proponent to have a qualified biologist conduct a pre-construction nesting bird survey within 7 days prior to earthmoving or vegetation removal using large equipment (e.g. bulldozers). If nesting birds or raptors are discovered during the pre-construction survey, the qualified biologist who conducted the survey should develop appropriate avoidance buffers for all active nest sites in consultation with CDFW. Alternatively, construction can be delayed until after the nesting bird season (i.e. September 1) or until the qualified biologist has determined that the nest is no longer active.

Additionally, the Project area has the potential to support Swainson's hawk, a threatened species under CESA; therefore, a qualified biologist should conduct at least one protocol-level survey for the species, in addition to a nesting bird survey, using the Swainson's Hawk Technical Advisory Committee's *Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley*, dated May 31, 2000. If nesting Swainson's hawk are discovered within 0.25 miles of the Project site, the Project proponent or the qualified biologist who conducted the surveys should consult with CDFW regarding appropriate avoidance and minimization measures to avoid take<sup>1</sup> of the species. Such measures may include delaying construction until the nest is no longer active or setting up appropriate buffers. If implementation of avoidance measures is infeasible, the ND should outline impacts and mitigation for Swainson's Hawk, and obtain a CESA Incidental Take Permit (ITP) from CDFW prior to starting Project construction. Issuance of a CESA ITP requires that a project proponent fully mitigate for their project's impacts to the covered species, and such mitigation measures must be described in the project's CEQA document before CDFW can issue the permit. In the event that the Project proponent wishes to obtain a CESA ITP, CDFW is available to meet with

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<sup>1</sup> Fish and Game Code section 86: "Take" means hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill



the Project proponent to work through the permitting process. More information about applying for a CESA ITP can be found on our website:

<https://wildlife.ca.gov/Conservation/CESA/Permitting/Incidental-Take-Permits>.

#### *On-Stream Diversion/Impoundment*

On-stream ponds/reservoirs are subject to the requirements in Fish and Game Code section 5937, which states:

*"the owner of any dam shall allow sufficient water at all times to pass through a fishway, or in the absence of a fishway, allow sufficient water to pass over, around, or through the dam to keep in good condition any fish that may be planted or exist below the dam."*

There is an approximately 2.5-acre on-stream pond/reservoir at the southeast corner of the Project site that operates via fill and spill (i.e. when the reservoir reaches maximum capacity it spills onto a concrete spillway before entering an unnamed tributary to Mud Slough and thence the Napa River). Fish and Game Code section 1602 requires a person to notify CDFW for any activity that will: 1) substantially divert or obstruct the natural flow of a river, stream, or lake; 2) substantially change the bed, channel, or bank of a river stream or lake; or 3) use material from the bed, channel, or bank of a river, stream, or lake. Examples of activities that require notification include diverting water from a river, stream, or lake for domestic use or irrigation and, as in this case, impounding water in an on-stream reservoir. CDFW recommends that the Project proponent notify CDFW by submitting an LSA Notification include Attachment C for the diversion of water, so that CDFW can determine if an LSA Agreement is necessary. An LSA Agreement for diversions of water typically include, but are not limited to, measures pertaining to season of diversion, minimum bypass flows, and invasive species management (e.g. bullfrog control). Procedures for submitting an LSA Notification can be found on our website:

<https://wildlife.ca.gov/Conservation/LSA>.

#### **Filing Fees**

CDFW anticipates that the Project will have an impact on fish and/or wildlife, and assessment of filing fees is necessary (Fish and Game Code, § 711.4; Pub. Resources Code, § 21089). Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW.

CDFW appreciates the opportunity to provide comments on the draft ND for the proposed Project and is available to meet with you to further discuss our comments. If you have any questions, please contact Mr. Garrett Allen, Environmental Scientist, at (707) 428-2076 or at [garrett.allen@wildlife.ca.gov](mailto:garrett.allen@wildlife.ca.gov); or Ms. Karen Weiss, Senior Environmental Scientist (Supervisory), at (707) 428-2090 or at [karen.weiss@wildlife.ca.gov](mailto:karen.weiss@wildlife.ca.gov).

Sincerely,



Gregg Erickson  
Regional Manager  
Bay Delta Region

cc: State Clearinghouse